

HEARING RE: ALGONQUIN GAS/ISLANDER EAST  
AUGUST 5, 2003

1 I'm glad that Islander East is not my neighbor.

2 They present arguments about minimizing  
3 environmental impacts of drilling and trenching that I  
4 find far from convincing. This program does nothing other  
5 than promote the financial interests of Islander East  
6 Pipeline Company and it's parent companies. Ecological  
7 interests are people interests. The pipeline's company  
8 interests are profits. Profits are okay. We wouldn't be  
9 here without companies having profits, however, people are  
10 more important.

11 We the people are part of the habitat that  
12 would be negatively impacted by this project. I urge you  
13 to deny the permit.

14 MODERATOR ROSENBERG: Thank you sir. Next  
15 speaker, M-U-K-U-N-D, second name N-O-R-I? To be followed  
16 by Paul Bradley.

17 MR. MUKUND NORI: Good evening everybody  
18 and thanks for waiting so long. My name is Mukund Nori.  
19 I live in North Branford, 32 Hunter Hill Road. I'm a  
20 citizen of this country and I'm proud to be one and I'm  
21 really, really upset the way this thing is going on this  
22 whole evening.

23 People have spoken a lot about why they're  
24 against the pipeline and there's -- I'm not going to

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1 repeat everybody's thing. I came here, my profession is a  
2 scientist, I came here hoping to hear something from the  
3 other side that would at least give me some sort of a  
4 balance. Instead what I've heard is stuff that makes me  
5 even more concerned that this pipeline should be stopped  
6 immediately, that we should not be going forward at all.

7 They talk about a model that says minimum  
8 impact. As a scientist, when you have a model, you test  
9 it against data. And the data here -- and if the data  
10 doesn't fit the model you don't change the data, you  
11 change the model. It's as simple as that. And what I'm  
12 hearing is that no -- this model is going to be good -- is  
13 going to have little impact on the environment when  
14 there's ample data from Milford and from other areas that  
15 says just the opposite.

16 I don't know how we can go forward as  
17 engineers, you are scientists. As people of -- as  
18 citizens, we want to be -- want common sense to prevail  
19 and all the common sense here says, stop this project.  
20 Thank you for your time.

21 MODERATOR ROSENBERG: Thank you sir. Next  
22 speaker, Paul Bradley. Mr. Bradley will be followed by  
23 David Schaffer.

24 MR. PAUL BRADLEY: Good evening. Paul

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1 Bradley, operator Rolling Acres Farm, 394 Foxon Road,  
2 North Branford, Connecticut.

3 I'm here this evening to voice my  
4 opposition to the Islander East project. We have spent a  
5 lot of time debating and asking questions. We have gotten  
6 limited information from them. My property would be  
7 personally impacted. They're planning to put their  
8 easement through and also take additional hayfield to use  
9 as a work area. I know what happened 30 years ago when  
10 they put the first pipeline through and this soil has  
11 never truly recovered in their work areas. I can imagine  
12 what they're going to do to Long Island Sound based upon  
13 what I've heard and read from both sides.

14 We the people are here, turn out time and  
15 time again to be heard. There is a better route for this  
16 pipeline. It may not create the cash flow that Duke  
17 Energy and Keyspan want, but unfortunately that is the  
18 alternative, the environmentally sensitive alternative.  
19 Keyspan talks about the demand for gas on Long Island, but  
20 yet for about a year now they've been giving away free  
21 furnaces that are gas powered if people convert. They're  
22 creating a demand artificially.

23 I would like to think that we the people of  
24 Connecticut will come out more like George Patton instead

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1 of George Custer. And I'm crossing my fingers, because  
2 folks, the Colonel from the Corps of Engineers came from  
3 West Point, so we know he has honor. Thank you.

4 MODERATOR ROSENBERG: Thank you sir. Next  
5 speaker, David Schaffer followed by Sandy B-R-E-S-H-I-N,  
6 Breshin.

7 MR. DAVID SCHAFFER: Good evening. My name  
8 is David Schaffer. I reside in 15 Spring Rock Road, Pine  
9 Orchard in Branford. I am a registered intervenor against  
10 Islander East.

11 I am here to speak in opposition to  
12 Islander East's proposed gas line. They have no  
13 sensitivity to the routing and the people they are  
14 disturbing. This is larger than a local issue. You've  
15 heard my friends, my neighbors, our State elected  
16 officials, our Federal officials speak in opposition to  
17 this. Long Island Sound is an estuary. It is a nursery.  
18 It is a nursery to the Atlantic fisheries. We are going  
19 to hamper this production very significantly in shellfish  
20 and fin fish. It goes way beyond the power that they want  
21 to generate from the gas from Nova Scotia.

22 I beseech the Army Corps of Engineers to  
23 listen to the people they hear here tonight and the people  
24 who represent us. This is not a good proposal. It should

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1 be denied. Thank you.

2 MODERATOR ROSENBERG: Thank you sir. Next  
3 speaker, Sandy Breslin. Did I get that right? Could you  
4 please spell your name for the record?

5 MS. SANDY BRESLIN: Yes indeed. It's my  
6 poor penmanship and not your pronunciation at fault.

7 MODERATOR ROSENBERG: Thank you.

8 MS. BRESLIN: It's Sandy Breslin, B-R-E-S-  
9 L-I-N.

10 MODERATOR ROSENBERG: Thank you.

11 MS. BRESLIN: I'm here tonight as a  
12 representative of Audubon Connecticut, a part of the  
13 national Audubon Society here in Connecticut. We have  
14 more than 16,000 members and our mission is to protect  
15 birds, other wildlife and their habitat through research,  
16 conservation, advocacy and education.

17 I want to thank you first for being here  
18 tonight and for lasting so long and so graciously and for  
19 giving us the opportunity to comment. Audubon Connecticut  
20 has serious concerns regarding the Islander East pipeline  
21 project. This proposal has the potential to negatively  
22 impact birds, wildlife and important habitat in and along  
23 Long Island Sound.

24 Long Island Sound has historically been a

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1 major wintering area for both greater and lesser scaup, a  
2 particular species mentioned earlier in the testimony of  
3 Dr. Barkley. There was a peak number estimated at 95,000  
4 back in 1948. Today it's estimated that 60 percent of the  
5 scaup in the United States winter in an area stretching  
6 from Cape Cod down to northern New Jersey. In particular,  
7 the water adjacent to the Thimble Island from Sachem's  
8 Head in Guilford to Indian Neck in Branford are a key  
9 wintering area and migratory stop over area for scaup and  
10 for other migratory waterfowl.

11                   There is a declining population of scaup.  
12 We're very concerned. We would echo -- I'm now  
13 summarizing because I see the yellow light. We would echo  
14 the comments of Commissioner Rocque that there's a great  
15 potential in this construction project and the ongoing  
16 impacts of it to impact mollusks, which are a primary food  
17 for scaup. There's increasing data that scaup are now  
18 being exposed to heavy metals and organo compounds that  
19 are toxic to them. Dr. Barkley has an long ongoing study  
20 that has been looking at this issue and we are very  
21 concerned that stirring up the sediment in this area will  
22 only increase their exposure to these toxics, which reduce  
23 their immune system and can compromise reproductive  
24 success.

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1 I would just add that there seems to be a  
2 prudent and feasible alternative to the proposed project  
3 and the proposed route. It has a lesser environmental  
4 impact. Audubon Connecticut would urge you to deny this  
5 application and to require that Islander East seek an  
6 alternative route that is less environmentally damaging.  
7 Thank you.

8 MODERATOR ROSENBERG: Thank you ma'am.  
9 Next speaker, Leah Lopez followed by Sue Holloway.

10 MS. LEAH LOPEZ: Good evening. My name is  
11 Leah Lopez and I'm here representing Save the Sound.  
12 "We're a 30-year-old New York and Connecticut non-profit  
13 membership organization dedicated to the restoration,  
14 protection and appreciation of Long Island Sound and it's  
15 watershed through advocacy, education and research. We  
16 request that you deny the permit for the portion of this  
17 file that relates to the construction and operation of the  
18 49.9 miles of natural gas pipeline infrastructure, in  
19 particular the 22.6 miles within Long Island Sound.

20 I would like to provide a few cursory  
21 statements to preface my comments. Approximately one  
22 third of the Sound's title marshes have been filled. Much  
23 of the remaining marshes have been ditched, diked, or  
24 impounded, further reducing their ecological value. Less

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1       than 10 percent of the land within the immediate coastal  
2       areas of Long Island Sound is permanently protected.

3               Only 292 miles or 23 percent of the total  
4       shoreline around Long Island Sound is accessible and open  
5       space throughout the coastal region continues to be  
6       displayed by more urban and suburban land uses, thus  
7       coastal Land Trusts have heightened value.

8               Long Island Sound is the only estuary in  
9       the nation covered by the Ocean Dumping Act and sound  
10      engineering should not suffer in an effort to avoid it's  
11      25,000 cubic yard triggering volume. Long Island Sound  
12      originated 15,000 years ago and is the culmination of  
13      3,000,000 years of natural processes."

14              I will now make my following comments to  
15      three primary points. The first being the ever popular  
16      Public Trust. "This proposed permit is for the free use  
17      of the Connecticut Public Trust. It is sought by a non-  
18      water dependent, non-historical, non-riparian, private  
19      entity. With every such project granted the argument that  
20      this is a finite ecosystem that should be guarded and  
21      protected for future use, is greatly diminished.

22              The second being long-term floor habitat  
23      changes. Deep intrusions like those proposed by the  
24      Applicant into the structural make-up of the Sound may

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1 permanently alter benthic habitats. In particular, the  
2 holes that are left by anchor scaring."

3 Seeing yellow, we're moving on  
4 significantly. "I think it's wise to note that the  
5 Branford Land Trust was one of the first recipients of a  
6 grant under the Long Island Sound Stewardship System,  
7 which is based on a Comprehensive Conservation and  
8 Management Plan adopted by Connecticut, New York and the  
9 United States Environmental Protection Agency.

10 And I'd like to say in conclusion despite  
11 what some might say this is not a local issue. This is  
12 not Connecticut versus New York. This is about the shared  
13 resource of Long Island Sound. But even more to the  
14 point, it's a national epidemic. At what point do we stop  
15 talking about protection and start acting?

16 I will conclude with a quote from President  
17 Theodore Roosevelt. 'The nation behaves well if it treats  
18 the natural resources as assets which it must turn over to  
19 the next generation increased, and not impaired in value.'  
20 Thank you very much."

21 MODERATOR ROSENBERG: Thank you ma'am.  
22 Charlene Granata? Elizabeth P-O-S-S-I-D-E-N-K? Victor  
23 Budnick?

24 MR. VICTOR BUDNICK: Thank you. I'm Victor

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1 Budnick. My wife and I are homeowners in Stony Creek and  
2 we're here to speak in opposition of the Islander East  
3 project.

4 For all the reasons you've heard tonight,  
5 which I won't rehash, this is a fatally flawed project,  
6 which no amount of modification or change could ever  
7 correct. In short, it's simply a very bad idea and it's  
8 incredible that Islander East hasn't learned that.

9 The only additional information I'd want to  
10 point out is that we're in the midst of a 10-year repair  
11 of I-95 between Branford and New Haven. I-95, as you  
12 probably know, is perpendicular to the proposed route of  
13 the pipeline and of course that involves blasting, traffic  
14 with fumes and all sorts of additional environmental  
15 stress. The last thing we need is additional  
16 environmental stress in a route that's perpendicular on  
17 the shore to 95.

18 In my professional life I work for the  
19 State and invest in emerging high-tech companies. We  
20 would never consider a project or a company that was as  
21 dangerous, risky, unproven as this project from a safety  
22 perspective, from an environmental perspective, from an  
23 economic perspective. There's no showing that there's any  
24 gas to be delivered. That there's any need for the gas.

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1 Or that the project could be accomplished successfully.  
2 In fact, the only -- the only assumption you could make  
3 about the economics of this project is that these  
4 companies expect to be free riders on the benefit of the  
5 public because otherwise there is no cost benefit.

6 The Corps is to be congratulated because  
7 for the many years it's administered it's various statutes  
8 and it's understood both it's statutes and eminent domain,  
9 have required that many be benefited and protected at the  
10 expense of the few. This project does otherwise and I  
11 respectfully request the Corps deny the permit. Thank  
12 you.

13 MODERATOR ROSENBERG: Thank you sir. Next  
14 speaker, D.J. King? Stephen Upson? Who will be followed  
15 by Nicholas Berkum.

16 MR. STEPHEN UPSON: Hi. I'm Steve Upson.  
17 And I've lived here all my life. My grandfather came here  
18 from East Haven and I mean, so there's a long time. So as  
19 far as -- we were farmers and we've always done things  
20 just, okay, if you want to do it over there, it's on your  
21 property, do whatever you want to do. No problem. But,  
22 you know, every -- things have to be maintained. It's --  
23 a pipeline has to be maintained. If you don't put oil in  
24 your car it won't go. I mean, it just wears out. Your

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1       tires, they wear out. It's no mind boggling deal.

2                       So in -- to me, you know, this is just --  
3       you're putting something under the ground that you can't  
4       get to when you want to just to check it and you can put  
5       all these little eyes down there all you want, but when  
6       you got to go fix it, nobody wants to know nothing. And  
7       so as far as I'm concerned, that's -- I'm -- I would worry  
8       more about it being fixed. Who's going to fix it? Just  
9       who would fix it if it broke? Who would fix it? It sure  
10      is not going to be one person, and that's the person in  
11      the big seat that's putting it in there.

12                     Because I've also been in heavy  
13      construction and I've been with some big companies. I --  
14      we were a little company and they hired us, but you know,  
15      it was tough for them to stand behind, you know, the guy  
16      who put the seat on here. He has to stand behind him. I  
17      mean, the guy who makes the thing for this, you've got to  
18      stand behind it.

19                     MODERATOR ROSENBERG: Thank you sir. Thank  
20      you very much. Next speaker, Nicholas Berkum? Is there  
21      anyone here that has filled out a card, but I have not  
22      called? Is there anyone here who has not filled out a  
23      card wishing to make a comment, or wishes to at this time?  
24      Ladies and gentlemen, our Hearing Officer, Colonel

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1 Koning.

2 HEARING OFFICER KONING: Thank you Larry.

3 We've heard a great many thoughtful statements this  
4 evening and we, the Corps, are going to have to give  
5 careful analysis -- we're going to be required of all the  
6 statements before a determination can be made and a  
7 decision rendered in this particular case. As a result of  
8 the comments that have happened this evening, and  
9 particularly because of the volume of data that has been  
10 deposited up front by the participants and also in the  
11 rear where we have our other stenographer, I am going to  
12 extend the public comment period until the 5<sup>th</sup> of  
13 September, from the 15<sup>th</sup> of August, which we had mentioned  
14 earlier this evening. Your written comments can be  
15 submitted to the Corps of Engineers until the close of  
16 business day on the 5<sup>th</sup> of September and they will receive  
17 equal consideration with those other issues presented this  
18 evening.

19 Each question or issue raised will be  
20 addressed in our statement of findings on the Corps  
21 determination regarding the Algonquin Gas Transmission  
22 Line and the Islander East Pipeline permit application.  
23 We at the Corps extend our appreciation to all those who  
24 took time to be here tonight, that took time to speak,

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1       that took time to provide us information of which we can  
2       base our review upon.

3                       I'd like to -- before I conclude this  
4       hearing I'd like to extend my appreciation to the town of  
5       Branford and specifically to the high school here for the  
6       use of this facility tonight, to the Branford Police  
7       Department that has been here all evening long and I'd  
8       like to thank you and those who have now left, but those  
9       who came, spent your time providing us with your thoughts,  
10      your comments and your concerns. Thank you again and good  
11      evening.

12                      (Whereupon, the hearing adjourned at 11:15  
13      p.m.)

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## Appendix B – Newspaper Accounts of HubLine winter delays

## PIPELINE PROMPTS CONCERN FOR LOBSTERS

**Author(s):** Beth Daley, GLOBE STAFF **Date:** May 29, 2003 **Page:** B1  
**Section:** Metro/Region

Construction delays on a gas pipeline under Massachusetts Bay have left trenches and miles of 30-inch diameter pipe in the path of lobsters, raising fears that they might be blocked from making their seasonal migration to inshore fishing grounds.

Most of the 29-mile pipeline, stretching from Beverly to Weymouth, was supposed to be buried in the seabed by May 1 to allow bottom-dwelling marine life to migrate without facing either obstacles or swirling sediment stirred up from the project's plowing. But severe weather this winter delayed construction, and the company laying the pipe, Algonquin Gas Transmission, now says it won't be completed until the fall. About 5 miles of the pipeline still rest on the bay's floor, and piles of sediment and trenches are scattered along the entire length of the pipeline. Late last week, the company agreed to pay the state \$5 million, in part to figure out how marine life was harmed by the pipeline delay and then fix the problem. But lobstermen say the damage to their livelihoods may already be done.

"It's tough on the lobstermen; we're hitting prime lobster season," said Bill Adler, executive director of the Massachusetts Lobstermen's Association, who said several hundred lobstermen work in the area near the pipeline construction. "We understand about the delay, but the sooner the lobsters can get through the better."

Fishermen and scientists fear the lobsters may walk into the trenches and then be buried when the pipe is laid in it. Others worry the pipe will act as a wall, forcing them into more inhospitable areas to grow new shells and spawn. Some scientists worry the lobsters - who are believed to return to the same areas year after year - may not come back at all if disrupted enough.

"We just don't know," said Joseph Ayers, a lobster biologist who is also on the Nahant Conservation Commission. If the pipeline wasn't done by May 1, his commission told the company it had to build gradual slopes out of the trenches and passages under the pipeline to allow lobsters to scurry inshore. However, that

only applies to areas considered part of Nahant, not the entire length of the pipeline.

The project is the first of its kind to cut across Massachusetts Bay, connecting New England to a high-pressure gas pipeline that originates at Sable Island off Nova Scotia and runs 600 miles to Massachusetts. The land portion of the project, from Methuen down to Beverly, drew protests early on as residents worried about the dangers of having a buried pipeline so close to their homes.

But the offshore portion, called the **HubLine**, has had little publicity, although some officials have raised concerns about a proposed extension that would cut through two of Boston Harbor's prime shellfishing beds. The **HubLine** construction is 5 to 6 miles off shore, requiring barges and heavy machinery visible from the shore in Boston Harbor.

Yesterday, Algonquin spokesman John Sheridan said the company was troubled by the delay and was working with lobstermen to get out of sensitive areas during prime season. For example, the company will work on the ends of the pipelines now, and be out by July 1 when lobsters are most abundant in those areas. "We're working really hard to get in and out," Sheridan said.

The big unknown for state fishery biologists, however, is what the longterm effect will be from the pipeline obstruction, perhaps unsettling the area in some way that might not be visible now. Part of the \$5 million will go to help to understand this, in hopes of using the information to make decisions about similar projects in the future. "We're concerned with the bigger picture," said Vin Malkoski, senior marine fisheries biologist with the state Division of Marine Fisheries.

Once completed, the pipeline will stretch to the Exelon Energy power plant now under construction in Weymouth, and tie in to Algonquin's 1,000-mile gas distribution system that serves southern New England.

Some environmentalists yesterday said the pipeline agreement made the best of an "unfortunate" situation, but it will be important for the public to be involved to figure out how the \$5 million will be spent.

"Since this project will set an important precedent, it is critical that we learn all we can from [it] and ensure that it is done right," said Carol Lee Rawn of the Conservation Law Foundation, which has kept close tabs on the project.

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## LOCAL NEWS

### HubLine misses deadline

By Bobby Gates / [rgates@cnc.com](mailto:rgates@cnc.com)

Thursday, October 23, 2003

After two missed deadlines and a \$5 million contribution to a state environmental trust fund, the Algonquin HubLine Natural Gas Project finally nears completion.

The remaining work, currently being completed in Beverly Harbor, is a connection of the main gas line with the so-called HDD, or horizontal directional drill, at the environmentally sensitive shoreline near the Veteran's Memorial Bridge. Work is expected to be complete, and gas flowing, by mid-November, said John Sheridan, Algonquin Gas Co. spokesman.

"The tie-ins are the last things that typically take place," he told the *Citizen* this week. "Basically everything is winding down."

The project involves laying a 30 inch diameter pipe between 3 and 10 feet below the ocean floor between Beverly Harbor and Weymouth, completing a connection of the 650-mile Maritimes and Northeast pipeline with the 1,000-mile Algonquin Gas Transmission system. Near the shore, the pipe had to be put much deeper, which is what the HDD is for.

After the tie-in - essentially welding the two pipeline segments together - the ditch will need to be backfilled. In August, the Massachusetts Department of Environmental Protection issued an amendment to the project's Water Quality Certification that allows the restoration work a "degree of flexibility," said DEP spokesman Joe Ferson. Instead of restoring the ocean floor to the exact elevation as it was, it can be within one foot, plus or minus, Ferson said.

There has been no extension of the Nov. 30 deadline for final tests and Feb. 15 deadline for backfilling.

After months of delays, and a noisy summer, final completion is welcome news for waterfront residents and fisherman.

The project work was never supposed to go into the summer, let alone the fall, according to the state and federal permits issued to the company.

"I think they were overly optimistic of their operation rates," said Phil Colarusso, a marine biologist with the U.S. Environmental Protection Agency, who worked closely on the project.

In fact, according to a schedule submitted to state environmental officials in May, the tie-ins were supposed to occur between July 15 and Aug. 15. And that was a schedule agreed to after an April deadline was missed.


It was the horizontal directional drills that wreaked havoc on the schedule, company officials said.


"I think that probably contributed to the time it took," Colarusso said.


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In addition, he said a harsh winter last year and equipment problems fueled the delays that meant the project was only roughly 60 percent complete as it approached its first deadline on April 30, 2003.

"They blew their schedule by quite a bit, if you think about it," Colarusso said. "We would have all loved for them to be done by the summer, or by July, but it didn't turn out that way."

In exchange for an extension of the so called "time of year window" in which work on the line was supposed to be completed, Colarusso said Duke Energy contributed \$5 million to the Massachusetts Marine Mammals and Fisheries Research and Conservation Trust. It was not a penalty or a fine for the company, he said, but a concession in order to be granted the timeline extension. That money will be used strictly for "habitat mitigation and restoration" according to a agreement signed between the company and the Massachusetts Department of Environmental Protection in May.

"I anticipate a lot of good things will come of it," Colarusso said about the trust fund.

While the money was not a penalty, federal environmental officials had considered enforcement action.

"We still hold our rights to conduct enforcement action on them for any problems that come to light on this project," he said.

Government officials debated halting the work until this winter versus allowing it to continue through the summer, the more sensitive season for work to be done.

"For the environment's sake, it was best to get them done and out of these areas," Colarusso said.

Conservation Commission Chairman David Lang said previously that though Duke complied with many of its requirements "we would have liked them to be out of there before the summer. They ran into some difficulties. They hadn't anticipated the difficult drilling of New England bedrock and it took them longer than they planned."

In addition to the state trust fund money, Mayor Thomas M. Crean obtained a promised \$200,000 in mitigation money to deal with potential problems from the pipeline installation. The money will go towards upgrades to harbormaster facilities; collection of data to determine health and environmental consequences; funding for non-profit groups to monitor and mitigate the impact of environmental and seabed changes; improvements to handle increased traffic on the waterfront; and funding to set aside for possible long-term health impacts and possible impacts to the lobster and shellfish community. The company also contributed \$5,000 to improvements to Gillis Park in Goat Hill.

Sheridan acknowledged that the company reentered into negotiations with the city in September. There are some non-profit groups in Beverly that are looking for Duke Energy, the parent company of Algonquin Gas Co., to financially assist with their work, Sheridan said, without naming the groups.

"It's under review right now," Sheridan said about any further contributions.

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## Appendix C – Massachusetts Consent Decree, HubLine delays and \$5 Million fines for environmental damages



ALGONQUIN GAS  
TRANSMISSION COMPANY  
5400 Westheimer Court  
Houston, TX 77056-5310

Mailing Address:  
P.O. Box 1642  
Houston, TX 77251-1642

713 627 5400

June 12, 2003

FILED  
OFFICE OF THE SECRETARY  
03 JUN 17 PM 1:56  
FEDERAL ENERGY  
REGULATORY COMMISSION  
ORIGINAL

Ms. Magalie R. Salas, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

Re: *Algonquin Gas Transmission Co.*, HubLine Project, Docket Nos. CP01-5-000 thru -002

Dear Ms. Salas:

In an effort to keep the Federal Energy Regulatory Commission ("FERC") Staff informed of the permitting activities related to the HubLine Project, Algonquin Gas Transmission Company ("Algonquin") submits for filing in the captioned dockets the enclosed "Administrative Consent Order" issued by the Department of Environmental Protection of the Commonwealth of Massachusetts ("MADEP") on May 23, 2003. The Administrative Consent Order constitutes a formal extension of the originally permitted work windows for the various construction activities associated with the HubLine Project.

Additionally, in accordance with Environmental Condition No.55 to the Commission's Ordering Issuing Certificates dated December 21, 2001, Algonquin hereby informs the FERC of further consultations with the Massachusetts Lobstermen's Association ("MLA") regarding the extension of certain construction schedules at various locations along the pipeline route through end of construction. A Settlement was reached with the MLA on June 6, 2003.

Pursuant to 18 CFR § 385.2010, Algonquin is contemporaneously serving copies of this response to persons whose names appear on the official service list for this proceeding. If you have any questions regarding this filing, please contact Carol Smith, Project Manager, Regulatory Affairs at (713) 627-5028.

Sincerely,

*Steven E. Tillman /wtt*

Steven E. Tillman, General Manager  
Regulatory Affairs

Attachment

cc: John Leiss, FERC  
Doug Sipe, FERC  
Ms. L. Turner, FERC  
All Parties

**COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS  
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

IN THE MATTER OF

**HubLine Project  
Algonquin Gas Transmission  
Company**

**ADMINISTRATIVE CONSENT ORDER  
and NOTICE OF NONCOMPLIANCE**  
Water Quality Certification No. W015087  
Chapter 91 License No. 9541  
ACO-BO-03-1N001-1N6Y

## I. THE PARTIES

1. The Department of Environmental Protection (hereinafter "DEP" or "the Department") is a duly constituted agency of the Commonwealth of Massachusetts established pursuant to M.G.L.c. 21A, s.7. It maintains a principal office at One Winter Street, Boston, Massachusetts.
2. Algonquin Gas Transmission Company ("Algonquin") is a Delaware corporation with a place of business at 1284 Soldiers Field Road, Boston, MA 02135 and FEIN No. 04-2127237.

## II. STATEMENT OF FACT AND LAW

1. The Department is responsible for the implementation in Massachusetts of the provisions of Section 401 of the Federal Clean Water Act, as amended, 33 U.S.C. s.1341, and for the implementation and enforcement of the Massachusetts Clean Waters Act, M.G.L.c. 21, ss.26-53, and 314 CMR 9.00, and the Public Waterfront Act, M.G.L. c. 91, §§12 through 18, and the Waterways Regulations, 310 CMR 9.00.
2. Algonquin's HubLine project (the "Project") entails the installation of 29.4 miles of 30 inch diameter pipe, beginning in the municipalities of Salem and Beverly, MA where the pipe connects with the Phase III project of the Maritimes & Northeast Pipeline, L.L.C. and terminating in the municipality of Weymouth, MA. The Project pipelines will typically be buried between 3 to 10 feet below the sea floor, and will traverse Beverly Harbor, Salem Sound, Massachusetts Bay, Broad Sound, Quiricy Bay, and the Fore River. Consequently, among a range of other federal, state and local permits and approvals, the Project activities required Algonquin to obtain a Section 401 Water Quality Certification and a Chapter 91 License from DEP pursuant to the above referenced statutes and regulations.
3. The Department issued its Water Quality Certification for the Project on August 16, 2002, and the final Chapter 91 License on September 26, 2002. Both of these DEP permits include a detailed schedule of construction activities and associated Time of Year ("TOY") work windows

that were established by DEP with input from EPA, NOAA's National Marine Fisheries Services, and the Commonwealth's DFWLE's Division of Marine Fisheries. See Condition 17 of the Water Quality Certification and Special Condition No. 4 of the Chapter 91 License. The purpose of the TOY windows is to minimize adverse environmental impacts to fisheries resources and habitat that will be affected by the construction of the Project, including multiple fisheries passage, spawning, development and/or settlement activities that are not discrete events with set end points.

4. Algonquin has commenced construction of the pipeline and, among other steps, has completed laying the pipeline on the seabed along the entire route in preparation for burial and has lowered the pipeline into an open trench along major portions of the route. At Algonquin's written request, the Department approved, with conditions, two minor time extensions pursuant to Condition 17 of the Water Quality Certification and Special Condition No. 4 of the Chapter 91 License. See the Amended Water Quality Certification dated March 27, 2003 and two Department letters dated April 3, 2003 and April 10, 2003.

5. In a letter dated April 17, 2003, Algonquin requested the Department to approve the continuation of certain Project activities significantly beyond the applicable TOY work window end dates of April 30, 2003 and May 31, 2003, as applicable, in order to complete the pipeline during this construction season. The Department, after consultation with DFWLE's Division of Marine Fisheries and EPA, determined that, on balance, there would be less environmental impact to authorize Algonquin to continue Project activities beyond the April 30, 2003 and May 31, 2003 end dates, subject to additional conditions and substantial related mitigation, rather than to require Algonquin to halt construction until it can be resumed at a later time. Among the primary considerations supporting its determination, the Department is seeking to avoid and/or minimize impacts from the unburied portions of the pipe to the seasonal inshore lobster migration. The Department further concluded that benthic communities are likely now developing along the pipeline, including burrowing by winter flounder, lobster and crabs, which would be destroyed if work resumed at a later date, and that such intra-annual cumulative impact would likely delay recovery of habitat functions and values.

6. On May 9, 2003, the Department and Algonquin reached an agreement in principle pursuant to which DEP agreed to exercise enforcement forbearance regarding the continuation of work by Algonquin that falls outside the TOY windows contained in the above referenced Water Quality Certification and Chapter 91 License contingent upon the Department and Algonquin entering into this administrative consent order ("ACO") by May 16, 2003 to (a) address and condition further work by Algonquin outside the existing TOY windows, (b) require Algonquin to provide \$5 million to fund additional mitigation activities, and (c) impose stipulated penalties for any future noncompliance with the ACO. The Department and Algonquin were not able to reach closure on all of the final terms and language of the ACO. However, in view of the progress made on the ACO, the Department agreed on May 16, 2003 to extend its exercise of enforcement forbearance to May 21, 2003, and then one final time, to May 23, 2003.

### III. DISPOSITION AND ORDER

As described above in Section II, Paragraph 6, the Department and Algonquin (collectively "the Parties") have agreed to enter into this Administrative Consent Order (the "Consent Order").

Accordingly, the Department hereby issues, and Algonquin hereby consents to, the following Consent Order:

1. Revised Sequencing of Work Schedule. In continuing Project Activities beyond the April 30, 2003 and May 31, 2003 TOY work window end date, Algonquin shall comply with the Revised Sequencing of Work Schedule (the "Schedule") contained in Attachment "A" and with the otherwise applicable provisions of the Water Quality Certification, including the Construction Water Quality Monitoring Plan requirements in Special Condition 8, and the Chapter 91 License.

2. The Department hereby determines, and Algonquin hereby agrees, that the deadlines set forth in the Schedule in Attachment A constitute reasonable timeframes for performing and completing the activities described therein. If any event occurs that delays or will delay performance of work beyond a deadline established in the Schedule, and such event was beyond the reasonable control and without the fault of Algonquin or any person or entity subject to Algonquin's control, Algonquin may submit a written request for an extension to the Department as soon as feasible and at least one (1) week prior to the relevant deadline in the Schedule. The Department may grant or deny any such request for an extension in its sole discretion and may require, as a condition of granting an extension to the Schedule, that Algonquin provide additional mitigation, beyond the scope of mitigation provided by Algonquin pursuant to the existing Water Quality Certification and Chapter 91 License and pursuant to Section III, Paragraph 5 of this Consent Order, commensurate with any short or long term impacts to aquatic resources and habitat that may be associated, directly or indirectly, with Algonquin's continuation of Project activities under the further extension, as determined by the Department.

3. Supplemental Monitoring During the Implementation of the Work.

Within five (5) business days of the effective date of this Consent Order, Algonquin shall submit to the Department, with copies to DFWLE's Division of Marine Fisheries ("DMF"), the Environmental Protection Agency ("EPA"), and the National Marine Fisheries Service ("NMFS"), a scope of work for a Supplemental Monitoring Plan and the projected cost for implementing such plan, not to exceed \$100,000. The scope shall include, but shall not be limited to, the following:

(a) a lobster survey that includes, but is not limited to, the following components:

1) an evaluation of how adult lobsters interact with the pipeline conducted by video work along the pipeline and quantitative sampling at discrete locations. The evaluation should examine areas where the pipeline is lying exposed on the sea floor, areas that have been completed, but not yet restored to the required grade.

Algonquin shall revise its scope of work for the Supplemental Monitoring Plan in accordance with any comments received from the Department, in consultation with DMF, EPA and NMFS, and shall immediately implement the scope of work approved by the Department. Within thirty (30) days from the completion of the Project, Algonquin shall submit a written report to the Department, with copies to DMF, EPA and NMFS, that summarizes the results of the above described Supplemental Monitoring Plan. Algonquin's costs of implementing the approved Supplemental Monitoring Plan, up to \$100,000, shall be credited to its obligation to contribute the sum of \$5,000,000 pursuant to Section III, Paragraph 5 of this Consent Order.

4. Stipulated Penalties for Violation of Revised Sequencing of Work Schedule.

If Algonquin, or its employees, agents, or contractors violate the terms of the Revised Sequencing of Work Schedule contained in Attachment A, it shall pay a stipulated civil administrative penalty of \$25,000 per day to the Commonwealth.

Stipulated civil administrative penalties shall begin to accrue on the day a violation occurs and shall continue to accrue until the day Algonquin corrects the violation or completes performance, whichever is applicable. Even if violations are simultaneous, separate penalties shall accrue for separate violations of this Consent Order. Stipulated civil administrative penalties shall accrue regardless of whether the Department has notified Algonquin of a violation or act of noncompliance. The payment of stipulated civil administrative penalties shall not alter in any way Algonquin's obligation to complete performance as required by this Consent Order.

All stipulated civil administrative penalties accruing under this Consent Order shall be paid within thirty (30) days of the date the Department sends a written claim therefor. If a court judgment is necessary to execute a claim for such stipulated penalties under this paragraph, Algonquin agrees to assent to the entry of such judgment. The stipulated civil administrative penalties set forth herein shall not preclude the Department from electing to pursue alternative remedies or alternative civil or criminal penalties which may be available by reason of Algonquin's failure to comply with the requirements of this Consent Order. In the event the Department collects alternative civil administrative penalties, Algonquin shall not be required to pay such stipulated penalties pursuant to this Consent Order.

5. Funding of Additional Mitigation Work.

Algonquin shall contribute a sum of \$5,000,000 to the Commonwealth for the purposes of assessing and providing appropriate mitigation and restoration for any short or long term impacts to aquatic resources and habitat that may be associated, directly or indirectly, with Algonquin's continuation of Project activities beyond the April 30, 2003 TOY work window end date. Algonquin understands and agrees that in addition to contributing \$5,000,000 pursuant to this Consent Order, Algonquin remains obligated to separately fund and implement the habitat mitigation and restoration required by Special Condition No. 11 in the Water Quality Certification.

Within ten (10) days from the effective date of this Consent Order, Algonquin shall contribute the \$4.9 million to The Commonwealth of Massachusetts Marine Mammals and Fisheries Research and Conservation Trust (the "Trust"), an expendable trust previously established by DFWEL's Division of Marine Fisheries ("DMF") to accept mitigation funds provided by Algonquin pursuant to the Water Quality Certification. As provided in Section III, Paragraph 3 above, up to \$100,000 of the total \$5 million contribution is being credited to the cost of Algonquin's implementation of a Supplemental Monitoring Plan during the implementation of the Work authorized in this Consent Order. Algonquin shall contribute any excess amount of the \$100,000 remaining after the implementation of the Supplemental Monitoring Plan to the Trust within seven (7) days of completing such work, in accordance with the payment instructions below.

The remaining \$4.9 million contribution to the Trust shall be used for the purposes described above, including short-term assessment and monitoring to be conducted by Algonquin during the implementation of the Revised Sequencing of Work Schedule in Attachment A. In developing the criteria and procedure for determining appropriate mitigation and/or restoration projects to be funded from the \$5,000,000 contribution to the Trust, DMF shall undertake a public review and comment process and seek the input of interested stakeholders and relevant state and federal agencies. DMF shall thereafter select all work, including mitigation and/or restoration projects, in accordance with the criteria established pursuant to the above process. The \$4.9 million amount shall be paid by certified check, cashier's check or money order payable to the Commonwealth of Massachusetts. Algonquin shall clearly print the name "Algonquin - HubLine Project", file number (ACOP-EO-03-1N001-1N6Y), and Federal Employer Identification No. 04-2127237 on the face of the payment, and DMF's Trust's Fleet Boston Financial Account No. 005447-0897. Algonquin shall mail the payment to:

**Fleet Boston Financial  
104 Canal Street  
Boston, MA 02114  
Attention: Robert Nero, Branch Manager**

Algonquin shall deliver a copy of the payment to:

**Paul Diodati  
Director, Division of Marine Fisheries  
251 Causeway Street, Suite 400  
Boston, MA 02114**

and to:

**Leonard Langley  
Director, Wetlands and Waterways Regulation Program  
Department of Environmental Protection  
One Winter Street, 6<sup>th</sup> Floor  
Boston, Massachusetts 02108**

6. Algonquin hereby waives its rights to an adjudicatory hearing before the Department on, to a tentative decision by the Department on, and to judicial review, rehearing, reargument and reconsideration by courts of competent jurisdiction of the issuance and/or terms of this Consent Order. Algonquin also hereby waives any and all of its rights to notice of its rights to administrative process or judicial review in connection with this Consent Order.

7. This Consent Order shall be binding on Algonquin and on its officers, employees, agents, successors, heirs and assignees. Algonquin shall not violate this Consent Order and shall not allow or suffer its officers, employees, agents, successors, heirs, assignees or contractors to violate this Consent Order. Violation of this Consent Order by any of the foregoing persons or entities shall constitute violation of this Consent Order by Algonquin. Algonquin shall provide a copy of this Consent Order to each successor or assignee concurrent with establishing any succession or assignment.

8. Except as otherwise provided in this Consent Order, nothing in this Consent Order shall be construed or operate as barring, diminishing, adjudicating or in any way affecting (i) any legal or equitable right of the Department to issue any additional Order or to seek any other relief to enforce the terms of this Consent Order, or (ii) any legal or equitable right of the Department to pursue any other claim, action, suit, cause of action, or demand which the Department may have to enforce the subject matter covered by this Consent Order, including, without limitation, any action to enforce this Consent Order in an administrative or judicial proceeding. Notwithstanding the foregoing, the Department agrees that it will not seek to assess Algonquin with civil administrative penalties for the continuation of work authorized in the Revised Sequencing of Work Schedule in Section III, Paragraph 1, Attachment A, or as authorized by the Department in approving an extension to the Schedule pursuant to Section III, Paragraph 2, provided that Algonquin is in compliance with the terms and conditions of this Consent Order, as determined by the Department.

9. This Consent Order shall not be construed or operate as barring, diminishing, adjudicating, or in any way affecting, any legal or equitable right of the Department with respect to any subject matter not covered by this Consent Order.

10. The activities performed pursuant to this Consent Order shall be performed in accordance with Department regulations and all other applicable federal, state and local laws, regulations and approvals. Any noncompliance with the requirements and provisions of applicable federal, state and local laws, regulations and approvals in connection with such activities shall constitute a violation of this Consent Order.

11. Algonquin shall allow Department personnel and its authorized representatives to enter and/or inspect its facilities, including all vessels and equipment, at all reasonable times for the purpose of investigating, sampling or inspecting any records, condition, equipment, practice or property relating to activities subject to this Consent Order, and at all times as necessary to protect public health, safety or the environment.

12. In addition to being a Consent Order, this instrument is also a Notice of Noncompliance issued pursuant to M.G.L. c. 21A, §16, and 310 CMR 5.00. Future violations of this Consent Order may result, without limitation, in the assessment of additional civil administrative penalties for each day, or portion thereof, each such violation occurs or continues.

13. This Consent Order represents the full and final agreement among the parties concerning the matters described herein, and supersedes all prior oral and written agreements and discussions.

14. This Consent Order and Algonquin's consent hereto, shall not constitute or be construed as an admission of any fact or allegation set forth herein except for purposes of the issuance and enforcement of this Consent Order.

15. This Consent Order shall not be construed as, or operate as, relieving Algonquin or any other person of the necessity of complying with all applicable federal, state and local laws and regulations, except that the timing of Algonquin's continuation of work authorized in the Revised Sequencing of Work Schedule in Section III, Paragraph 1, Attachment A, or as authorized by the Department in

approving an extension to the Schedule pursuant to Section III, Paragraph 2, in compliance with the terms and conditions of this Consent Order, as determined by the Department, will be considered by the Department as acceptable compliance with the applicable Department laws and regulations.

16. This Consent Order may be modified only by written agreement of the parties hereto.

17. The provisions of this Consent Order are severable, and if any provision of this Consent Order, or the application thereof, is held invalid, such invalidity shall not affect the validity of other provisions of this Consent Order, or the application of such other provisions, which can be given effect without the invalid provision or application; provided, however, that the Department shall have the discretion to void this Consent Order in the event of any such invalidity.

18. This Consent Order shall become effective on the date the last signature set forth below.

19. Each undersigned representative hereby certifies that he/she is fully authorized to enter into the terms and conditions of this Consent Order and to legally bind the party on whose behalf such representative is signing to this Consent Order.

**ALGONQUIN GAS TRANSMISSION COMPANY**

By its authorized representative:

By:   
Patrick J. Hester

Algonquin Gas Transmission Company  
Federal Employer Identification No. 04-2127237

Date: 5-28-03

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

By: \_\_\_\_\_  
Edward F. Kunce, Acting Commissioner  
Department of Environmental Protection

Date: \_\_\_\_\_

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approving an extension to the Schedule pursuant to Section III, Paragraph 2, in compliance with the terms and conditions of this Consent Order, as determined by the Department, will be considered by the Department as acceptable compliance with the applicable Department laws and regulations.

16. This Consent Order may be modified only by written agreement of the parties hereto.

17. The provisions of this Consent Order are severable, and if any provision of this Consent Order, or the application thereof, is held invalid, such invalidity shall not affect the validity of other provisions of this Consent Order, or the application of such other provisions, which can be given effect without the invalid provision or application; provided, however, that the Department shall have the discretion to void this Consent Order in the event of any such invalidity.

18. This Consent Order shall become effective on the date the last signature set forth below.

19. Each undersigned representative hereby certifies that he/she is fully authorized to enter into the terms and conditions of this Consent Order and to legally bind the party on whose behalf such representative is signing to this Consent Order.

**ALGONQUIN GAS TRANSMISSION COMPANY**

By its authorized representative:

By: \_\_\_\_\_  
Patrick J. Hester

Algonquin Gas Transmission Company  
Federal Employer Identification No. 04-2127237

Date: \_\_\_\_\_

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

By: Edward P. Kince  
Edward P. Kince, Acting Commissioner  
Department of Environmental Protection

Date: 23 May 03

**Attachment A**  
**Algonquin Gas Transmission Company – HubLine Pipeline Project ACC**  
**Revised Sequencing of Work Schedule**  
**May 23, 2003**

Construction Activity	Scheduled Completion Date
Jetting – Complete jetting activities between MP 24 to MP 26 (~1900 feet of transition areas).	June 1, 2003
Jetting – Complete jetting activities between MP 22.5 to MP 24 (deeper burial location – Anchorage Area 5).	June 11, 2003
Backfill Plow – Commence with backfilling using the backfill plow between MP 19.5 to MP 21.5 following the completion of plowing.	June 15, 2003
Backfill Plow – Complete backfilling using the backfill plow between MP 24 to MP 26.	June 3, 2003
Plowing – Commence with plowing operations between MP 16 to 21.5.	June 30, 2003
Plowing – Commence with plowing operations between MP 5.0 to MP 10.5	June 30, 2003
Jetting – Complete jetting activities between MP 2.5 and MP 3.5 (deeper burial location).	June 20, 2003
Backfill Plow – Commence with backfilling using the backfill plow between MP 3.5 to MP 5.0.	July 1, 2003
Pipeline Flooding – Flood the pipeline after the completion of plowing in preparation for the commencement of jetting activities.	June 30, 2003
Imported/engineered backfill – Complete imported/engineered backfill placement between MP 22.5 to MP 24 (deeper burial location – Anchorage Area 5).	June 30, 2003
Jetting Transitions – Complete jetting transition areas at MPs 4.3, 5.1, and 5.5.	July 7, 2003
Imported/engineered backfill – Complete imported/engineered backfill placement between MP 2.5 and MP 3.5.	July 15, 2003
Backfill Plow – Commence with backfilling using the backfill plow between MP 5.0 to MP 10.5.	July 15, 2003
Jetting Transitions – Complete jetting transition areas at MP 10.2	July 7, 2003
Jetting – Commence with jetting activities between MP 10.5 and MP 19 (Precautionary Area) following completion of jetting in the Inshore areas.	August 11, 2003
Jetting Transitions – Complete jetting transition areas at MP 21.4.	August 14, 2003
Imported/engineered backfill – Complete imported/engineered backfill placement between MP 10.5 and MP 19 (Precautionary Area).	November 14, 2003
Salem and Beverly Horizontal Directional Drill tie-ins & backfill	Complete tie-ins, pending completion of HDDs, July 15 through August 15.
Georgas Island Horizontal Directional Drill tie-ins & backfill	Complete tie-ins, pending completion of HDD, September 1 through September 30.
Pipeline dewatering – Following the completion of the final tie-ins, dewater treated seawater floodwater per the NPDES permit requirements.	Activities are anticipated to be completed by November 30, 2003, pending completion of HDDs.
Complete hydrostatic testing of the mainline and complete final backfill activities at tap and flange connections, etc.	Activities are anticipated to be completed by November 30, 2003, pending completion of HDDs.
Final restoration – Following the completion of the imported backfill placement, complete survey and evaluation of contour restoration. Make any necessary modifications to complete the restoration of contours in accordance with applicable permit conditions.	Initiate after November 1, 2003 and complete by February 15, 2004

Appendix D – Southern Connecticut Gas Precedent Agreement with Algonquin's  
HubLine Pipeline

Authority (MWRA) on Deer Island (Deer Island Lateral); (3) a meter station on the Deer Island Lateral; and (4) other appurtenant facilities. In addition, Algonquin proposes to include in the HubLine Project, on the in-service date of the HubLine Project, the facilities approved in Algonquin's Fore River Project in Docket No. CP00-34-000.<sup>4</sup> Algonquin states that the proposed facilities will be capable of delivering approximately 300,500 Dth per day on a year-round basis at an estimated cost of \$159 million (inclusive of the Fore River Project volumes and costs). Algonquin intends to finance the HubLine Project facilities with funds on hand and from short-term and long-term borrowings.

## 2. Markets

Algonquin held an open season for the HubLine Project from July 20, 1999, until August 12, 1999. As a result of the open season, Algonquin entered into agreements with the following shippers:

Shipper	Volume (Dth/d)	Type of Agreement	Term (years)
Southern Connecticut Gas Company (Southern Connecticut)	20,000	Executed Precedent Agreement and Service Agreement	10
Providence Gas Company (Providence)	500	Executed Precedent Agreement and Service Agreement	20
Southern Energy Kendall L.L.C. (Southern)	35,000	Executed Precedent Agreement and Service Agreement	20

---

<sup>4</sup>Algonquin originally received, in Docket No. CP00-34-000, Commission authorization to construct and operate facilities necessary to transport gas to Sithe Power Marketing, L.P.'s (Sithe) Fore River electric generating plant. See 92 FERC ¶ 61,071 (2000). Sithe had the option to convert its firm service from the existing AFT-CL service agreement in the Fore River Project to firm service in the HubLine Project under a AFT-1 service agreement. On August 2, 2000, Sithe exercised this option. When the HubLine Project commences service, the Fore River Project's facilities and costs will become part of the HubLine Project.

Appendix E – FERC Interrogatory and Islander East Response on HubLine Inadequacy to Supply Islander East

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP

2101 L Street NW • Washington, DC 20037-1526  
Tel (202) 785-9700 • Fax (202) 887-0689

Writer's Direct Dial: (202) 775-4782  
E-Mail Address: WebbB@dsmo.com

September 24, 2001

ORIGINAL  
01 SEP 24 PM 4:01  
FEDERAL ENERGY  
REGULATORY COMMISSION  
OFFICE OF THE SECRETARY

Mr. David P. Boergers, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

Re: Islander East Pipeline Company, L.L.C.  
Docket No. CP01-384-000 et al.  
OEP/DPC/CG-1; § 375.308(x)(3)  
Response to FERC 9/7/01 Data Request

Dear Mr. Boergers:

Islander East hereby submits for filing a response to the Commission's data request issued September 7, 2001 in the captioned docket ("September 7 Request").

Pursuant to 18 CFR § 385.2010, Islander East is contemporaneously serving copies of this response to persons whose names appear on the official service list for this proceeding. The attached information was prepared under my direction. If you have any questions regarding this filing, please call me at (202) 775-4782.

Respectfully submitted,

*Beth L. Webb*  
Beth L. Webb

cc: All Parties

010927 0354-2

AS  
DOCKETED

1177 Avenue of the Americas • 41st Floor • New York, New York 10036-2714  
Tel (212) 835-1400 • Fax (212) 997-9880

<http://www.dsmo.com>

Islander East Pipeline Company, L.L.C.  
Docket Nos. CP01-384-000, et al.  
OEP/DPC/CG-1; § 375.308(x)(3)  
Response to 9/7/2001 Data Request

Q.1) Report the number of parcels and acres in the categories in the table below for the right-of-way including work spaces, access roads and warehouse/contractor yards required for your proposed pipeline. If you believe that no condemnation is required, provide justification for that belief.

Response 1:

	NUMBER OF PARCELS	ACRES
Easement Obtained	0	0
Easement Expected	256	314.8 (Does not include Long Island Sound water crossing)
Condemnation Required	See response below	See response below

At this stage in the certificate process Islander East is continuing the consultative process with potentially affected parties which may result in the adoption of route alternatives and/or deviations; thus the easement negotiation process is still in the planning phase.

Islander East will engage in good faith discussions and work diligently with affected landowners with the expectation that a mutual agreement can be reached and the necessary property interests can be acquired without the use of eminent domain. Further, Islander East does not and will not utilize eminent domain as a negotiation tactic. Islander East would exercise eminent domain rights only as a means of last resort after all good faith efforts have failed. Islander East has made these commitments in its Landowner Information Brochure included in Appendix 5B to Resource Report 5.

Despite all reasonable efforts to reach mutual agreement with affected landowners, it is possible that eminent domain authority may be necessary in certain instances to acquire easements, including property that may be (i) in probate, (ii) held by multiple landowners that are unable to reach agreement among themselves, (iii) held by a non-responsive out-of-state landowner, (iv) owned by a landowner whose identity is unknown, or (v) encumbered with defective title records. In such instances, Islander East is committed to making sure that affected landowners are fairly compensated.

Q.2) The application at page 12 states that Islander East's facilities will increase access to Sable Island gas supplies via the Maritimes/HubLine expansion. However, the available capacity on Algonquin Gas Transmission Company's (Algonquin) HubLine facilities is substantially

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less than the capacity of Islander East's facilities. The application also states on page 23 that it is each shipper's responsibility to obtain capacity on Algonquin's system.

- a) What is the source of gas supply for each shipper in the Islander East project?
- b) What is the path of the gas supply from the supply source to Islander East's facilities for each shipper?
  - i) Provide the transportation charges, identifying the pipeline and the applicable rate schedule to move the gas from the supply source to Islander East.
  - ii) For transportation on the Algonquin system, provide the specific transportation route from receipt on Algonquin's system to delivery on the C-1 pipeline. Provide the rate and rate schedule that will be charged to transport the gas on Algonquin to the delivery point on the C-1 pipeline. Indicate if Islander East's shippers will receive a discount for such service.
- c) Provide the details of any arrangements that the Islander East's shippers have made for upstream transportation (e.g., precedent agreements, service agreements, etc.).
- d) How will Islander East shippers utilize Algonquin's HubLine facilities to access Sable Island gas supplies if they cannot acquire adequate capacity through available capacity, released capacity, or capacity related to expiring contracts?

Response 2:

As stated in the application, Islander East's shippers are responsible for making all gas supply and transportation arrangements upstream of the proposed Islander East system. There are a variety of supply and transportation options available to the Islander East shippers. On Algonquin, Islander East shippers may utilize their existing contracted capacity, if any, with secondary delivery points, new firm capacity, released capacity and/or interruptible capacity, or purchase gas at the top of the C-System on a bundled basis. Transportation paths are available beyond the Algonquin system as a result of its existing interconnections with the systems of Tennessee, Iroquois and Texas Eastern and others, including its future interconnection with Maritimes and Northeast via the HubLine project. Through Algonquin and these interconnecting systems, domestic United States supplies, imported Distrigas supplies and Western and Eastern Canadian supplies are all accessible.

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Q.3) Page 13 of the application states, "Direct deliveries to the east end of the island will help to minimize the upgrades needed to the KeySpan facilities on Long Island."

- a) Do KeySpan Energy Delivery Long Island and KeySpan Energy Delivery New York (collectively, KeySpan) have adequate takeaway capacity?
- b) If not, when do they plan to upgrade their facilities to accommodate deliveries from Islander East?
- c) What facilities does KeySpan need to install to accommodate Islander East deliveries (other than the interconnection facilities mentioned in Section 1.8.3 of Resource Report 1 of the Environmental Report)?

Response 3a:

KeySpan has advised Islander East that it has sufficient take-away capacity to take the volumes contracted for into the KeySpan system at the start-up of the Islander East pipeline.

Response 3b:

Not applicable.

Response 3c:

KeySpan has advised Islander East that no other facilities other than the interconnect facilities are needed for KeySpan to take gas supplied from the Islander East Pipeline Project.

Q.4) Table 1 on page 21 of the application shows that the maximum daily quantity (MDQ) to be transported on Islander East at the beginning of the second year of service will exceed the capacity of Islander East as currently designed and the MDQ will continue to increase for the first five years of service. Islander East states that it will expand via compression and minor pipeline looping to meet its customers' requirements.

- a) Explain the approach Islander East will take with regard to Commission filings for new facilities to expand its system to meet a new MDQ every year of its first five years of existence.

Appendix F – Massachusetts Marine Fisheries Request for Documented Damages Due to  
HubLine project



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***Marine Fisheries* Public Notice**  
**October 28, 2003**

***MARINEFISHERIES* SEEKS PUBLIC COMMENT ON  
PROJECT CRITERIA AND IDEAS TO ASSESS AND MITIGATE RESOURCE  
DAMAGE FROM THE HUBLINE GAS PIPELINE**

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The Division of Marine Fisheries (*Marine Fisheries*) is seeking comments from the public to help determine appropriate long-term assessment and mitigation programs in response to natural resource impacts attributable to the Massachusetts Bay HubLine gas pipeline installation activities.

Exceedence of specific Time-Of-Year (TOY) work windows recommended in the permitting process resulted in monetary compensation by Algonquin for environmental assessment and mitigation. *Marine Fisheries*, as the lead agency in receipt of these funds, will lead mitigation efforts in cooperation with the Department of Environmental Protection and the Executive Office of Environmental Affairs through a memorandum of agreement to ensure that the funds are used to effectively mitigate and/or restore aquatic resources and habitat. **Comments are sought on both project selection criteria and suggested ideas for projects:**

Project selection criteria. *Marine Fisheries* will eventually select projects based on their ability to match certain criteria that provide for appropriate mitigation and restoration for any short or long term impacts to aquatic resources and habitat that may be associated, directly or indirectly, with Algonquin's continuation of Project activities beyond TOY work window end dates of April 30, 2003 and May 31, 2003. Criteria therefore should address impacted marine resource(s), species, and/or habitat type and the basic hierarchy of mitigation/restoration preferences. Specifically, *Marine Fisheries* invites the public to make suggestions about candidate resources (e.g species) and project priorities (in-kind vs. out-of-kind and on-site vs. off-site). *Marine Fisheries* has drafted potential lists of both marine resources impacted from the HubLine Project and guidelines for prioritization of projects.

(a) *Potential List of Marine Resources Impacted:*

Anadromous fish runs	Atlantic Cod
American lobster	Blue Mussels
Eelgrass	Hard-bottom encrusting community
Ocean Quahog	Sea Scallop
Softshell clam	Soft-bottom benthic infaunal community
Surf clam	Winter flounder
Yellowtail Flounder	

(b) Potential Guidelines for Prioritization of Projects: Prioritization of projects on the basis of geographical and resource focus should be undertaken according to the following basic hierarchy of mitigation/restoration preferences:

- i. On Site/In Kind: Projects proposing to restore one or more of the specific affected resources listed above within the footprint or immediate vicinity of the impact areas will be given the highest priority for funding.
- ii. In Kind/Offsite: Projects proposing to restore one or more of the affected resources listed above within the greater Massachusetts Bay system, but removed from the impact areas shall be given the second priority for funding.
- iii. On Site/Out of Kind: Projects proposing to restore one or more of the marine resources not on the affected resource list above, but within the footprint or immediate vicinity of the impact areas, shall be given the third priority for funding.
- iv. Off Site/Out of Kind: Projects proposing to restore marine resources not on the affected list above and removed from the project area will receive the lowest priority for funding.

*Marine Fisheries* will review public comments and project ideas to finalize project selection criteria. *Marine Fisheries* will subsequently begin reviewing the suitability of proposed projects against finalized criteria and draft a multi-year work plan.

Comments may be submitted by e-mail ([Bruce.Estrella@state.ma.us](mailto:Bruce.Estrella@state.ma.us)), fax (508.563.5482), or mail (Division of Marine Fisheries, 50A Portside Dr., Pocasset, MA 02559, ATTN: B. Estrella) and will be accepted until 5:00 PM, Friday, November 28, 2003.

For a map of HubLine related activities and further information visit  
[www.hublineupdates.com/webroute.htm](http://www.hublineupdates.com/webroute.htm).